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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,109	12/21/2000	Karl J. Wood	PHB 34,436	1480

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EXAMINER

USTARIS, JOSEPH G

ART UNIT PAPER NUMBER

2616

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,109

Applicant(s)

WOOD, KARL J.

Examiner

Joseph G Ustaris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9-12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 13 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. This action is in response to the amendment dated 26 July 2004 in application 09/747,109.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1 and 15 recite the limitation that the system is "backward-compatible". Such limitation is not fully supported in the specification. The examiner will consider the limitation as new matter and will not consider the limitation when examining the claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 9 is rejected under 35 U.S.C. 102(e) as being anticipated by Butler et al.

(US20020007493A1).

Butler et al. (Butler) discloses a video broadcast system or "broadcast enhancement system" wherein a broadcast source broadcasts video content or video stream or "television broadcast signal" and ancillary data or "enhancement signal" to multiple receivers (See Fig. 1). The broadcasters prepare the ancillary data as overlays to be used in a color keying or "chroma keying" process prior to transmission (See paragraph 0009). The receiver receives the video stream and ancillary data and applies color keying to overlay or "superimpose" the ancillary data with the video stream (See paragraph 0036). The overlaid signal or "superimposed signal" is then passed on to a monitor or standard TV screen or "television" (See paragraph 0038). Furthermore, the ancillary data or HTML files are prepared for color keying by the broadcasters, where inherently the broadcast source broadcasts multiple ancillary data or "broadcast signal" to the receivers (See paragraph 0013).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 10, 12, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butler et al. (US20020007493A1) in view of Matthews, III et al. (US006631523B1) and MacInnis et al. (US006700588B1).

Regarding claim 1, Butler et al. (Butler) discloses a video broadcast system or "broadcast enhancement system" wherein a broadcast source broadcasts video content or video stream or "television broadcast signal" and ancillary data or "enhancement signal" to multiple receivers (See Fig. 1). The system is used with a television and/or a PC that includes a receiver (See paragraph 0015, 0026, and 0038), where inherently no adaptation is required to the PC or television in order to perform the functions described herein. The broadcasters prepare the ancillary data as overlays to be used in a color keying or "chroma keying" process prior to transmission (See paragraph 0009). The PC receives the video stream and ancillary data and applies color keying to overlay or "superimpose" the ancillary data with the video stream (See paragraph 0036). The PC receives the video stream by receiver 58 and other digital data or ancillary data through the Internet via modem 138 or "two receivers being arranged separately from each other" (See Fig. 2; paragraph 0017, 0018, and 0041). The overlaid signal or "superimposed signal" is then passed on to a monitor or standard TV screen or "television" (See paragraph 0038). However, Butler does not disclose that (1) the modem can receive a wireless transmission and (2) that the PC is explicitly embodied as a set-top-box.

(1) Matthews, III et al. (Matthews) discloses an interface unit that is utilized in an interactive entertainment system (See Figs. 1, 3, and 4). The interface unit includes two receivers where one receiver is used to receive video data and the other receiver is used to receive other content from the Internet via another wireless distribution network (See Figs. 1, 3, and 4; column 6 lines 21-32 and column 8 lines 19-33). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the modem disclosed by Butler to be able to accept transmissions from a wireless distribution network, as taught by Matthews, in order to expand the capabilities of the system thereby making the system more convenient for the user.

(2) Butler suggests that the PC can take different forms other than a personal computer (See Butler paragraph 0054). MacInnis et al. (MacInnis) discloses an apparatus and method for blending graphics and video surfaces. MacInnis discloses that graphic displays systems are used in television control electronics such as STBs. The STB is able to blend graphics and video using various techniques including chroma keying (See Fig. 2 and 3; column 1 lines 45-55, column 7 lines 35-45, and column 14 lines 20-35). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the PC disclosed by Butler to be embodied as a STB, as taught by MacInnis, in order to provide a convenient compact device that can be easily located near or on a television.

Regarding claim 2, Butler discloses that the ancillary data is used to provide additional information, for example, statistics during a sports broadcast or other detailed information. The ancillary data is sent as HTML files along with control data, wherein the

processor inherently formats the data of the HTML file to be displayed before color keying is applied to overlay the ancillary data with the video stream (See Fig. 2 and paragraphs 0009, 0054, 0055).

Regarding claim 3, the ancillary data contains HTML files or "world wide web page" (See paragraphs 0020 and 0022).

Regarding claim 4, Butler in view of Matthews and MacInnis explicitly disclose that the ancillary data is multiplexed with the television broadcast signal for transmission and for the PC to have a demultiplexer to extract the ancillary data.

Butler suggests many methods for combining the ancillary data with the television broadcast signal (See paragraphs 0015 and 0016). Official Notice is taken that it is well known to multiplex signals together and to use a demultiplexer to separate different signals at a receiver. Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the video broadcast system disclosed by Butler in view of Matthews and MacInnis to multiplex the ancillary data with the television broadcast signal and for the PC to include a demultiplexer in order to make efficient use of the available bandwidth thus allowing more data to be sent through the transmission medium.

Regarding claim 5, the ancillary data, which inherently contains text and graphics, is also sent and received through the vertical blanking interval (VBI) or "teletext" (See paragraph 0016),

Regarding claim 6, the ancillary data is also sent and received through the Internet (See paragraph 0017).

Claim 10 contains the limitations of claim 1 (wherein the PC is a STB as discussed in claim 1 above) and is analyzed as previously discussed with respect to that claim.

Claim 12 contains the limitations of claim 1 (wherein the PC is also considered a "mixer" where it is able to enhance a television signal by intercepting the signal from the receiver, applying the HTML files via color keying, and passing the signal to the monitor or TV as discussed above) and is analyzed as previously discussed with respect to that claim.

Claim 14 contains the limitations of claim 1 (wherein the PC or "mixer" has a receiver for receiving wireless transmissions as discussed in claim 1 above) and is analyzed as previously discussed with respect to that claim.

Claim 15 contains the limitations of claim 1, 12, and 14 and is analyzed as previously discussed with respect to those claims.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butler et al. (US20020007493A1) in view of MacInnis et al. (US006700588B1).

Claim 11 contains the limitations of claim 9 and is analyzed as previously discussed with respect to that claim. However, Butler does not disclose that the receiver is explicitly embodied as a set-top-box (STB).

Butler suggests that the receiver can take different forms other than a personal computer (See Butler paragraph 0054). MacInnis et al. (MacInnis) discloses an apparatus and method for blending graphics and video surfaces. MacInnis discloses

that graphic displays systems are used in television control electronics such as STBs. The STB is able to blend graphics and video using various techniques including chroma keying (See Fig. 2 and 3; column 1 lines 45-55, column 7 lines 35-45, and column 14 lines 20-35). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify the receiver disclosed by Butler to be embodied as a STB, as taught by MacInnis, in order to provide a convenient compact device that can be easily located near or on a television.

Allowable Subject Matter

5. Claims 13 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 13 and 16, the prior art of record fails to show or fairly suggest that the "received television broadcast signal" is intercepted from the "set-top-box".

Response to Arguments

6. Applicant's arguments filed 26 July 2004 have been fully considered but they are not persuasive.

Applicant argues with respect to claim 9 that Butler fails to disclose or suggest instructions "to prepare the signal for chroma keying". However, Butler does disclose that control files are also sent down to the PC to indicate when the overlays are to be rendered as well as how the overlays should be handled (See abstract and paragraph

0051 and 0058). Applicant asserts that the timing parameters are not instructions "to prepare the signal for chroma keying". However, the limitations of the claim are read in the broadest sense. The timing parameters provide instructions to the PC to execute "chroma keying" according to the instructions of the HTML files or "to prepare the signal for chroma keying. It suggested that the applicant clearly claim what the "instructions" entails.

The remaining arguments with respect to claims 1, 4, 10, and 11 have been considered but are moot in view of the new ground(s) of rejection.

It is noted that that the previous Office Action contained Official Notice statements which have not been traversed by the applicant. These statements have therefore been taken as admissions of prior art as dictated by MPEP § 2144.03.

Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

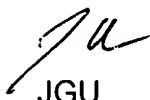
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph G Ustaris whose telephone number is 703-305-0377. The examiner can normally be reached on M-F 7:30-5PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JGU

January 26, 2005



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